IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6868 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT WATER SUPPLY AND SEWERAGE BOARD

Versus

PRAMILABEN AMRUTLAL THAKAR

Appearance:

MR MH RATHOD for Petitioner

MR JV JAPEE for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 21/03/2001

ORAL JUDGEMENT

1. The petitioner-Gujarat Water Supply & Sewerage Board has filed this petition challenging the judgment and award dated 23.2.99 passed by the Labour Court, Palanpur, in Reference LCP No.167 of 1996. The Labour Court was pleased to allow the reference of the 2nd Party

Pramilaben Amrutlal Thakar and directed that she may be reinstated in service with full backwages and also cost of Rs.500/-.

2. In this petition, the petitioner contended that originally the petitioner filed written reply before the Labour Court and contended that respondent-workman has not completed 240 days. She was engaged only for a temporary period in place of regular employee and she was not engaged for permanent post. However after that the proceedings were transferred to the Labour Court Palanpur and subsequently to that notice was not served on the office of the Executive Engineer, Gujarat Water Supply and Sewerage Board. In spite of that notice was not served the Labour Court was pleased to close the right of the petitioner and passed an ex-parte order against the petitioner.

3. When the matter was placed for hearing before this Court, this Court (Coram: Ms.R.M.Doshit, J.) on 4.11.99 pleased to pass following order:

> "Learned advocate Mr.Rathod appears for the petitioner and states that the Reference made to the Labour Court, Ahmedabad was, in the year 1996, transferred to the Labour Court Palanpur. The notice issued by the Labour Court, Palanpur on 12th August, 1997 was not served upon the petitioner and was returned unserved. The petitioner, therefore, had no opportunity to contest the claim made by the respondent-workman. Rule. Notice as to interim relief and hearing of rule returnable on 9th December, 1999. There shall be ad-interim relief in terms of paragraph 9(B)."

4. Before this Court it was contended that the Labour Court has passed an ex-parte order and therefore the same is liable to be set aside. I have gone through the contention of the learned advocate for the respondent. The learned advocate for the respondent has not shown sufficient reason to assail the order of the Labour Court on the ground that petitioner was not given an opportunity to cross-examine the respondent. In view of the same, following order is to be passed.

> (1) The judgment and award dated 23.2.99 of the Labour Court, Palanpur, passed in Reference (LCP) No.167 of 1996 is quashed and set aside.

(2) The Labour Court is directed to again heard the matter as de novo and will afford an opportunity to the petitioner to lead evidence and also to cross-examine the respondent-herein and thereafter passed a fresh order on the merits of the matter in accordance with law.

(3) As the matter is old one, the Labour Court is directed to dispose of the matter within six months from the date of receipt of writ of this Court.

(4) As the respondent has incurred cost in this behalf the petitioner will pay Rs.7500/- (Seven Thousand Five Hundred Only) as cost to the respondent.

5. With the aforesaid direction, this Special Civil Application stands disposed of. Rule is made absolute to the above extent.

(K.M. Mehta, J.)

syed/